

**STATE OF CONNECTICUT**  
**BOARD OF EXAMINERS FOR NURSING**

Department of Public Health and Addiction Services v.

Virginia Malin-Bushta, RN

License No. R24324

64 North Regent Street

Port Chester NY 10573

CASE PETITION NO. 930914-10-054

**MEMORANDUM OF DECISION**

**INTRODUCTION**

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Public Health and Addiction Services (hereinafter the "Department") with a Statement of Charges dated October 5, 1993.

The Statement of Charges alleged, in two (2) counts, violations of certain provisions of Chapter 378 of the Connecticut General Statutes by Virginia Malin-Bushta (hereinafter the "Respondent").

On October 6, 1993 the Board issued a Summary Suspension Order based upon evidence presented that there was a clear and immediate danger to the public health and safety (Department Exhibit B), and issued a Notice of Hearing scheduling a hearing for October 20, 1993. (Department Exhibit C) The hearing took place on October 20, 1993 in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

All members of the Board involved in this decision attest that they were present at the hearing or have reviewed the record, and that this decision is based entirely on the record and their specialized professional knowledge in evaluating the evidence.

### **FACTS**

Based on the testimony given and the exhibits offered into evidence, the Board made the following findings of fact:

1. Virginia Malin-Buszta, hereinafter referred to as the Respondent, was issued Registered Nurse License Number R24324 on July 21, 1972 and was at all times referred to in the Statement of Charges the holder of said license. (Department Exhibit E) (Hearing Transcript, October 20, 1993, p. 8)
2. The Respondent was aware of the time and location of the hearing. The Summary Suspension Order, Notice of Hearing, and Statement of Charges were delivered by certified mail to the Respondent. (Department Exhibit F)
3. The Respondent was present at the hearing but was not represented by counsel. (Hearing Transcript, October 20, 1993, pp. 4-5)
4. During the hearing the Respondent verbally answered the Statement of Charges. (Hearing Transcript, October 20, 1993, pp. 7-10) The Respondent admits the First Count, paragraphs one through eight and the Second Count, paragraphs nine through thirteen. (Hearing Transcript, October 20, 1993, p. 10)
5. From on or about May 1985 to February 1989, while working as a nurse at United Hospital in Port Chester, New York, the Respondent diverted to herself the medication Nubain. (Department Exhibit G)
6. From on or about May 1985 to February 1989 the Respondent abused or utilized to excess the medication Nubain. (Department Exhibit G)

7. Pursuant to a Consent Order dated December 5, 1991 the Respondent's registered nurse license was placed on probation for a period of two (2) years, retroactive to August 12, 1991. (Department Exhibit G)
8. The probation of the Respondent's registered nurse license included the condition that she would be responsible for submitting to random urine screens for alcohol and drugs for the entire probationary period and that quarterly reports of said screens were to be submitted to the Board. (Department Exhibit D and G)
9. From November 1992 to July 1993, while her registered nurse license was on probation, the Respondent failed to submit to random urine screens for alcohol and drugs. (Department Exhibit D) (Hearing Transcript, October 20, 1993, p. 9)
10. While the Respondent's registered nurse license was on probation, quarterly reports of random alcohol/drug screens were not submitted to the Board for January 1, 1993 and April 1, 1993. (Department Exhibit D)
11. The Respondent was aware that her failure to comply with the conditions of probation of her registered nurse license would constitute a violation of probation and may result in additional disciplinary action against her nursing license. (Department Exhibits D and M) (Hearing Transcript, October 20, 1993, pp. 9, 16-17, 22)

### **DISCUSSION AND CONCLUSIONS**

In consideration of the above Findings of Fact, the following conclusions are rendered:

Virginia Malin-Buszta held a valid registered nurse license, number R24324, in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, Notice of Hearing and Statement of Charges sufficiently provided information as mandated by sections 4-177, 4-182 and 19a-17 of the Connecticut General Statutes.

The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as sections 19-2a-1 through 19-2a-30 of the Regulations of Connecticut State Agencies. The Notice of Hearing, Statement of Charges and the hearing process provided the Respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by section 4-182(c) of the Connecticut General Statutes .

The FIRST COUNT of the Statement of Charges alleges that the Respondent, while her registered nurse license was on probation pursuant to a Consent Order dated December 5, 1991, failed to undergo and/or provide reports of quarterly alcohol/drug screens as required by the conditions of probation set forth in the Consent Order.

The Respondent admits these charges. (Answer: Hearing Transcript, October 20, 1993, pp. 7-10)

Based on its findings and the Respondent's admission, the Board concludes that the Respondent failed to undergo and/or provide reports of quarterly alcohol/drug screens as specified in the First Count. The Board concludes that the Respondent's conduct is a violation of the probation ordered pursuant to the Consent Order dated December 5, 1991 and therefore the Respondent is subject to disciplinary action as provided in section 19a-17 of the Connecticut General Statutes.

The SECOND COUNT of the Statement of Charges alleges that the Respondent's conduct which resulted in the Consent Order dated December 5, 1991, specifically, her use and abuse of Nubain which she diverted from the United Hospital, Port Chester, New York from on or about May 1985 to February 1989, failed to conform to the accepted standards of the nursing profession in violation of section 20-99(b) of the Connecticut General Statutes.

The Respondent admits these charges. (Answer: Hearing Transcript, October 20, 1993, pp. 7-10)

Section 20-99(b) of the Connecticut General Statutes prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...."

Based on its findings and the Respondent's admission the Board concludes that the Respondent's conduct of diverting and abusing Nubain, as specified in the Second Count, which resulted in the Consent Order dated December 5, 1991, is conduct which fails to conform to accepted standards of the nursing profession and violates sections 20-99(b)(2) and (5) of the Connecticut General Statutes. Therefore, the Respondent is subject to disciplinary action pursuant to section 19a-17 of the Connecticut General Statutes.

#### **ORDER**

Pursuant to its authority under sections 19a-17 and 20-99 of the Connecticut General Statutes, the Board of Examiners for Nursing hereby orders the following:

1. For the First Count and the Second Count, the Respondent's registered nurse license, No. R24324, is placed on probation for a period of two (2) years.
2. For the First Count and the Second Count the Respondent shall be assessed a civil penalty in the amount of five hundred dollars (\$500.00).
3. If any of the following conditions of probation are not met, the Respondent's registered nurse license may be immediately revoked:

- A. That the \$500.00 civil penalty shall be payable in two (2) installments of \$250.00 each and shall be sent to the Board at the address listed in paragraph O below. Payments shall be made by certified check payable to "Treasurer, State of Connecticut". The first \$250.00 installment is due on June 1, 1994, the second \$250.00 installment is due on January 1, 1995.
- B. The Respondent shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by her employer(s) within thirty (30) days as to receipt of a copy of this Memorandum of Decision.
- C. Should the Respondent change employment at any time during the probationary period, she shall provide a copy of this Memorandum of Decision to her employer and said employer shall notify the Board in writing, within thirty (30) days, as to receipt of a copy of this Memorandum of Decision.
- D. The Respondent shall not accept employment as a nurse for a personnel provider service, Visiting Nurse Association or home health care agency for the period of her probation.
- E. The Respondent shall cause quarterly employer reports to be submitted to the Board by her nursing supervisor (i.e. Director of Nursing) during the entire period of probation. Quarterly employer reports are due on the first business day of January, April, July and October and shall commence with the report due April 4, 1994.
- F. Said quarterly reports cited in paragraph E above, shall include documentation of the Respondent's ability to safely and competently practice nursing. Said quarterly reports shall be issued to the Board at the address listed in paragraph O below.
- G. At her own expense, the Respondent shall engage in counseling with a licensed or certified therapist for the entire period of probation.

- H. The Respondent shall provide a copy of this Memorandum of Decision to her therapist. The Board shall be notified in writing by her therapist, within thirty (30) days of the effective date, as to receipt of a copy of this Memorandum of Decision.
- I. The Respondent shall cause quarterly reports to be submitted to the Board by her therapist during the entire period of probation. Quarterly therapist reports are due on the first business day of January, April, July and October and shall commence with the report due April 4, 1994.
- J. Said reports cited in paragraph I above, shall include documentation of dates of treatment and an evaluation of her progress and alcohol and drug free status. Said reports shall be issued to the Board at the address cited in paragraph O below.
- K. The Respondent shall be responsible for submitting to random urine and/or blood screens for alcohol and drugs for the entire probationary period, as ordered by her therapist and/or personal physician. Said screens shall be legally defensible in that the specimen donor and chain of custody must be identified throughout the screening process. She shall be responsible for immediately notifying the laboratory, her therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) she is taking. There must be at least one such alcohol/drug screen monthly for the entire period of probation. Reports of said random alcohol/drug screens are due monthly, commencing March 1, 1994.

Said screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method.

Reports of random alcohol and drug screens shall be submitted directly to the Board at the address listed in paragraph O below, by the Respondent's therapist or personal physician or the testing laboratory.

- L. She shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for her, for a legitimate purpose, by a licensed health care practitioner.
- M. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- N. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- O. Any correspondence and reports are to be addressed to:

**OFFICE OF THE BOARD OF EXAMINERS FOR NURSING**  
Department of Public Health and Addiction Services  
150 Washington Street  
Hartford CT 06106

- 3. Any deviation from the terms of probation without prior written approval by the Board of Examiners for Nursing will constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order and will subject the Respondent to sanctions under Section 19a-17(a) and (c) of the Connecticut General Statutes including but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Connecticut Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take action at a later time. The Connecticut Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to her address of record (most current address reported to the Licensure and Renewal Section of the Division of Medical Quality Assurance of the Department of Public Health and Addiction Services or the Connecticut Board of Examiners for Nursing).



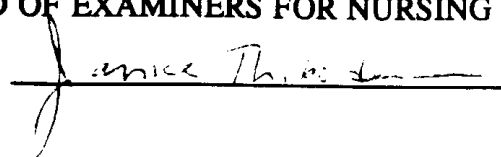
4. This Memorandum of Decision becomes effective, and the two (2) year probation period of the Respondent's license shall commence on February 15, 1994.

The Board of Examiners for Nursing hereby informs the Respondent, Virginia Malin-Buszta and the Department of Public Health and Addiction Services of the State of Connecticut of this decision.

Dated at Hartford, Connecticut, this 10th day of February, 1994.

BOARD OF EXAMINERS FOR NURSING

By

A handwritten signature in cursive script, appearing to read "Janice Th. [unclear]", is written over a horizontal line.

9110Q



# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES  
BUREAU OF HEALTH SYSTEM REGULATION

February 13, 1996

Virginia Malin-Buszta  
315 King Street, Apt. 5-H  
Port Chester NY 10573

RE: Connecticut RN License No. R24324

Dear Ms. Malin-Buszta:

You have fulfilled the terms of the probation of your license. The probationary status of your Registered Nurse License will be removed effective February 15, 1996.

Renewal of your registered nurse license is required, by law, annually during the month of your birth following the date of this letter. If the license is not renewed within ninety (90) days of the due date, it will become automatically void. This means that future reinstatement will require re-application. This is a process of having your credentials re-evaluated.

State law requires you to notify this office within thirty (30) days of ANY change of address whether in or out of this state. Should you have any questions concerning this process contact this Department at 860-566-4979.

Sincerely,

Marie T. Hilliard, Ph.D., R.N.  
Executive Officer  
Board of Examiners for Nursing

MTH:jew  
4290/55

cc: Richard J. Lynch, Assistant Attorney General  
Donna Buntaine Brewer, Chief, Public Health Hearing Office  
✓ Debra Tomassone, Chief, Licensure & Registration  
Debra Johnson, Health Program Associate, Applications, Examination, Licensure

*CORRECTED copy*

Phone: TDD: 203-566-1279  
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